



Rule and Interpretive/Policy Statement Review Checklist
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title):

- **WAC 458-20-24001 (Sales and use tax deferral--Manufacturing and research/development activities in distressed areas -- Application filed after July 31, 1999)**
- **WAC 458-20-24001A (Sales and use tax deferral--Manufacturing and research/development activities in distressed areas -- Application filed prior to August 1, 1999)**

Date last adopted/issued: **June 30, 2001**

Reviewer: **Cindy Evans**

Date review completed: **December 18, 2002**

Briefly explain the subject matter of the document(s): **Rules 24001 and 24001A implement chapter 82.60 RCW. Chapter 82.60 RCW provides a sales and use tax deferral for manufacturing and research and development investment in distressed areas of the state.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Need:

YES	NO	
X¹		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?



	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X²		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)

Please explain.

X¹ This rule implements a complex statute and is therefore necessary to comply with the statute.

X² Rule 24001 and Rule 24001A has inaccurate information regarding the imposition of interest when a deferral must be repaid (sections (13) and (11) respectively) and Rule 24001A has an inaccurate definition of "person" (section (27)(n)). *I don't think these two relatively minor inaccuracies quite meet the contemplated "so obsolete that it is of little value, warranting the repeal or revision of the document?" standard.*

X³ The document is necessary to protect the people of the state of Washington. The legislature provided this incentive to businesses, both to retain and attract businesses. The rule sets forth the procedures whereby an application is approved or denied. The continued revenue from lawful taxes and the exemption from lawful taxes is a public purpose.

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
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		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X ¹		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

X¹ ~~It has been determined that interest can not be assessed on the repayment of deferred retail sales/use tax when the deferral was granted prior to August 1, 1999, when the recipient of the deferral did not create the requisite number of qualified employment positions. Extension interest is always applicable. This is a change in policy. The rules are accomplishing the results that they were originally designed to achieve. However, these rules provide inaccurate information in a couple areas that should be corrected.~~

Rules 24001 (subsection (13)(d)) and 24001A (subsection (11)) explain that deferred taxes become immediately due and interest will be assessed if the Department finds that an investment project has been operationally complete for three years and has failed to create the required number of qualified employment positions. Interest is to be assessed retroactively to the date the application for deferral was filed. *I think it would be helpful to provide a bit more context.*

While RCW 82.60.070 previously imposed interest in such cases, this provision regarding interest was removed from the statute in 1999. Rule 24001A also has an inaccurate definition of "person" (section (27)(n)).

If we address this "issue" in terms of the provisions relative to retroactive application of interest, I don't think there is a need to address extension interest, which is the result of the broader provisions in RCW 82.60.060. I think?



Given our earlier conversation, why again are we making the change regarding interest in 24001A?

5. Intent and Statutory Authority:

YES	NO	
X¹		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
X		Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

X¹ RCW 82.32.300 and RCW 82.01.060(2).

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts



		on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

9. LISTING OF DOCUMENTS REVIEWED: Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Chapter 82.60 RCW

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **None**

Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs):

Kurt E. Young v. Dept. of Rev., Board of Tax Appeals, Docket No. 99-261 (2002) (holding that a person seeking exemption(s) from taxation has the burden to show that he or she has satisfied the conditions for an exemption).

Appeal Division Decisions (WTDs): **None**

Attorney General Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

- X** **Amend**
- _____ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- _____ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)



Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

Rule 24001 and Rule 24001A have inaccurate information regarding the imposition of interest when a deferral must be repaid (sections (13) and (11) respectively) and Rule 24001A has an inaccurate definition of "person" (section (27)(n)). **These rules should be amended to provide correct information in these areas.**

11. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4